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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/691,721	10/22/2003	Eric V. Mott	895,675-178	6841

34263 7590 01/17/2007  
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EXAMINER
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MALLARI, PATRICIA C

ART UNIT	PAPER NUMBER
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3735

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/17/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

10/691,721

Applicant(s)

MOTT ET AL.

Examiner

Patricia C. Mallari

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.

If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication. Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 October 2003.  
2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-6, 8-10 and 12-18 is/are rejected.  
7) ☐ Claim(s) 7, 11 is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 22 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 10/22/03.

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_

### ***Double Patenting***

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-3, 12, 14, and 16-18 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6,663,570 to Mott et al. (herein referred to as '570) in view of US Patent No. 5,413,508 to Obara. Claim 1 of '570 recites most of the claimed limitations of claims 1, 3, 12, 14, 16, and 18 of the instant application, wherein the nosepiece of claim 1 of '570 is the same as the sleeve of the instant application. However, claim 1 of '570 lacks the contact member having a plurality of axially spaced contact members and lacks the cable having a plurality of conductors electrically connected to the axially spaced contact members. However, Obara teaches a connector for connecting a flexible elongate member to a monitor, wherein the electrical contact member of the connector comprises a plurality of axially spaced contact members 61-63 and the cable 73 comprises a plurality of conductors 71 electrically connected to the axially spaced contact members (see entire document, especially figs. 2 of Obara). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to use the contact members and cable of Obara as that of Mott '570, since Mott '570 teaches using a contact member and cable but is silent as to their details and Obara teaches appropriate such contact member and cable.

Regarding claims 2 and 17, the "flexible elongate member" is not positively recited as a part of the invention of claim 1. Claim 1 only refers to the "flexible elongate member" with respect to the intended use of the claimed invention. Since the language is merely "intended use" language, the applicants should note that the prior art teaches all of the claimed structural limitations and recited relationships of claim 2 of the

application. The invention of claim 1 of '570 as modified, would certainly be capable of connecting a guidewire, as claimed.

Claims 4-6 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 2 of U.S. Patent No. 6,663,570 to Mott et al. (herein referred to as '570) in view of US Patent No. 5,413,508 to Obara. Claim 1 of '570 teaches most of the claimed limitations of claim 4 of the instant application, wherein the "plurality of jaw members" correspond to engagement members and "released and clamped positions" correspond to a disengaged position and an engaged position, respectively. Claim 2 of '570 is silent as to whether the engagement member is disposed in the internal passage. However, Obara teaches a connector wherein the engagement member 89 is disposed in the internal passage of the housing (see entire document, especially fig. 2 of Obara). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to dispose the engagement member of claim 2 of '570 in the internal passage of the housing, since claim 2 of '570 admits to there being engagement members and Obara demonstrates the internal passage of the housing as being an appropriate location for such members.

Regarding claim 5, the "flexible elongate member" is not positively recited as a part of the invention of claim 4. Claim 4 only refers to the "flexible elongate member" with respect to the intended use of the claimed invention. Since the language is merely "intended use" language, the applicants should note that the prior art teaches all of the claimed structural limitations and recited relationships of claim 5 of the application. The

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invention of claim 2 of '570 as modified, would certainly be capable of connecting a guidewire, as claimed.

Claims 8-10, 13 and 14 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 2 of U.S. Patent No. 6,663,570 to Mott et al. (herein referred to as '570) in view of US Patent No. 5,413,508 to Obara, as applied to claims 4-6 above. Claim 2 of '570, as modified, lacks the electrical contact member having a plurality of axially spaced contact members and lacks the cable having a plurality of conductors electrically connected to the axially spaced contact members. However, Obara teaches a connector for connecting a flexible elongate member to a monitor, wherein the electrical contact member of the connector comprises a plurality of axially spaced contact members 61-63 and the cable 73 comprises a plurality of conductors 71 electrically connected to the axially spaced contact members (see entire document, especially figs. 2 of Obara). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to use the contact members and cable of Obara as that of Mott '570, as modified, since Mott '570, as modified teaches using a contact member and cable but is silent as to their details and Obara teaches appropriate such contact member and cable.

Regarding claim 9, the "flexible elongate member" is not positively recited as a part of the invention of claim 1. Claim 1 only refers to the "flexible elongate member" with respect to the intended use of the claimed invention. Since the language is merely "intended use" language, the applicants should note that the prior art teaches all of the

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claimed structural limitations and recited relationships of claim 2 of the application. The invention of claim 1 of '570 as modified, would certainly be capable of connecting a guidewire, as claimed.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 8 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 5,482,038 to Ruff in view of US Patent No. 5,413,508 to Obara. Ruff teaches a connector comprising a housing having an internal passage 57 therein, and an electrical contact member 52, 64 disposed in the internal passage. A cable 14 has a conductor 91 connected to the electrical contact member 52, 64. An engagement member 70 is disposed in the internal passage, the engagement member being movable between an engaged position and a disengaged position, wherein the engagement member 70 grips the flexible elongate member in the engaged position. A sleeve 26 has an opening therein which communicates with the internal passage in the housing and movable between an open position and a closed position, wherein, when the sleeve is in the closed position, the engagement member is in the engaged position (see entire document, especially figs. 2, 6; col. 3, lines 24-63; col. 4, lines 14-67; col. 6,

lines 8-38 of Ruff). The electrical contact member lacks a plurality of axially spaced contact members and the cable lacks a plurality of conductors being electrically connected to respective axially spaced contact members.

However, Obara teaches a connector comprising an electrical contact member having a plurality of axially spaced contact members 61-63 and a cable 73 having a plurality of conductors 71 being electrically connected to respective axially spaced contact members (see entire document, especially figs. 2, 3; col. 2, lines 61-67 of Obara).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to combine the connector of Obara with that of Ruff as it would merely be the substitution of one known electrical contact member and corresponding cable for another.

Regarding claim 10, the sleeve is a nose piece (see entire document, especially fig. 2 of Ruff).

Claims 12, 14, 15, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 6,415,168 to Putz in view of Obara. Putz teaches a connector comprising a housing 10 having an internal passage therein, and a plurality of axially spaced contact members 22, the plurality of contact member 22 being movable between engaged and disengaged positions with respect to the flexible elongate member. A plurality of conductors (wherein each wire is a conductor) is electrically



connected to respective contact members. A sleeve 18 has an opening 24 which communicates with the internal passage via openings 28. The sleeve is movable between an open position and a closed position, wherein movement of the sleeve causes movement of the plurality of contact members between the disengaged and engaged positions such that when the sleeve is in the open position, the plurality of contact members are in the disengaged position, and, when the sleeve is in the closed position, the plurality of contact members are in the engaged position (see entire document, especially figs. 1, 2, 7; col. 4, line 55-col. 5, line 2; col. 5, lines 10-34 of Putz). Putz lacks the conductors being grouped into a single cable.

However, Obara teaches a connector comprising a cable 73 having a plurality of conductors 71 for connection to a plurality of electrical contacts (see entire document, especially fig. 2 of Obara). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to use the cable of Obara in place of the conductors of Putz, as it would merely be the substitution of one set of conductors for another.

Regarding claim 14, when the plurality of contact members is in the engaged position, the flexible elongated member is in electrical contact with the cable (see entire document, especially figs. 4 & 6 of Putz).

Regarding claim 15, when the plurality of contact members are in the engaged position, the plurality of contact members mechanically grip the flexible elongate member so as to prevent to the flexible elongate member from being withdrawn from the connector (see entire document, especially figs. 6 and 7 of Putz). While Putz does

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not explicitly address preventing the member from being withdrawn, it is clear that the force exerted by the compressed spring of the contact member 22, when the flexible elongate member is inserted, would provide some resistance to withdrawal of the flexible elongate member.

Regarding claim 17, claim 12, upon which claim 17 depends, only refers to the "flexible elongate member" with respect to intended use of the connector, and the element is not positively recited as part of the claimed invention. Since the language is merely "intended use" language, the applicant should note that the prior art of record teaches all of the claimed structural elements and their recited relationships and that the applicants cannot rely on the "flexible elongate member" or characteristics thereof to define over Putz, as modified. The connector of Putz as modified is certainly capable of connecting a guidewire to a physiological monitor, as claimed.

Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Putz in view of Obara, as applied to claims 12, 14, 15, and 17 above. The designation of the sleeve as a "nose piece" merely addresses the shape of the sleeve, i.e. a piece that forms a portion of the connector that resembles nose in shape or position. The sleeve of Putz, as modified, does not resemble a nose in shape or position. However, the applicants have not disclosed that such a shape or position of the sleeve provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected the applicants' invention to perform equally well with the sleeve having a different shape/position, because the shape and/or

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position of the sleeve does not affect the ability of the sleeve to move between open and closed positions. Accordingly, the designation of the sleeve as a "nose piece" is deemed to be a mere obvious design consideration that fails to patentably distinguish over the prior art of Putz, as modified by Obara.

***Allowable Subject Matter***

Claims 7 and 11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 1-6, 13, and 16 would be allowable if the double patenting rejection, set forth in this Office action were overcome, and the claims were rewritten to include all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:

Regarding claims 1-7 and 16, the prior art of record fails to teach or fairly recite a connector for connecting a flexible elongate member having a sensor mounted thereon to a physiological monitor, the connector comprising an interlock mechanism disposed in the housing having a locked position and an unlocked position, the interlock mechanism being in an unlocked position when an end of the flexible elongate member is fully inserted into the connector, and being movable between the locked and unlocked positions by movement of the sleeve, wherein, when the interlock mechanism is in the

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locked position, the sleeve is prevented from moving from the open to the closed position, in combination with all of the other limitations of the claims.

Regarding claim 11, the prior art of record fails to teach or fairly recite a connector for connecting a flexible elongate member having sensor mounted thereon to a physiological monitor comprising grip tubing disposed in the housing and arranged coaxially around the flexible elongate member, in combination with all of the other limitations of the claims.

Regarding claim 13, the prior art of record fails to teach or fairly recite a connector for connecting a flexible elongate member having sensor mounted thereon to a physiological monitor comprising a pair of engagement members disposed in the internal passage of the housing, the pair of engagement members being supported for movement between a released position and a clamped position in response to movement of the sleeve between the open and closed positions, in combination with the movement of the sleeve between open and closed positions causing movement of the plurality of contact members between the disengaged and engaged positions, and further in combination with all of the other limitations of the claims.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patricia C. Mallari whose telephone number is (571) 272-4729. The examiner can normally be reached on Monday-Friday 10:00 am-6:30 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Marmor, II can be reached on (571) 272-4730. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

*for*  
pcm

  
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